

Subject

Amendment No. 2 to the Joint Powers Agreement Creating the Mojave Desert and Mountain Integrated Waste Management Authority

Background

The City of Adelanto adopted the attached agreement, to become a member of the Mojave Desert and Mountain Integrated Waste Management Authority (the JPA). The JPA Board reviewed and recommended the revised agreement at its October 2005 meeting.

Under the existing agreement, addition of a new member requires consent of 2/3 of JPA members. The revised agreement provides that additional members be added by the JPA Board, thereby streamlining the process.

The revised agreement also:

- Specifies programs, as well as facilities, under Recitals and Purpose.
- Includes composting and conversion technologies facilities.
- Refers to Public Resources Code sections as common powers, specifically Division 12.1 (Beverage Container Recycling and Litter Reduction) and Division 30 (Waste Management).
- Increases the limit on Board compensation to \$150 per diem. Current compensation is \$75.

Recommendation

Adopt Amendment No. 2 to the Joint Powers Agreement Creating the Mojave Desert and Mountain Integrated Waste Management Authority

Amendment No. 2
Joint Powers Agreement
Creating the
Mojave Desert and Mountain
Integrated Waste
Management Authority

This Agreement is made and entered into as of the _____ of _____ 2006, by and between the following public entities:

- | | |
|---------------------------|------------------------------|
| (a) City of Adelanto | (f) City of Twentynine Palms |
| (b) Town of Apple Valley | (g) City of Victorville |
| (c) City of Barstow | (h) Town of Yucca Valley |
| (d) City of Big Bear Lake | (i) County of San Bernardino |
| (e) City of Needles | |

For purposes of this Agreement, these public entities shall be known individually as “member” and collectively as “members.”

RECITALS

A. State law requires local governments in California to develop and implement Integrated Waste Management Plans, including facilities and programs to reduce and recycle solid waste.

B. Each of the members is a “public agency” under Article 1, Chapter 5, Division 7, Title 1 of the Government Code of the State of California (commencing with Section 6500), authorized and empowered to contract for the joint exercise of powers common to public agencies.

C. The members wish to jointly exercise their powers to develop programs and facilities to comply with state solid waste management law. This participation in no way limits or prejudices any party's right to participate in other programs or facilities.

D. The members wish to enter into an Agreement to establish the "Mojave Desert and Mountain Integrated Waste Management Authority".

COVENANTS

In consideration of the mutual promises and covenants herein contained, the parties hereto agree as follows:

1. Agency Created. There is hereby created a public entity to be known as the "Mojave Desert and Mountain Integrated Waste Management Authority." The Authority is formed by this Agreement pursuant to the provisions of Article 1, Chapter 5, Division 7, Title 1 (commencing with Section 6503) of the Government Code of the State of California. The Authority shall be a public entity separate from the parties hereto.

2. Purpose of the Agreements: Common Power to be Exercised. Each member has in common the powers enumerated in Division 12.1 (Beverage Container Recycling and Litter Reduction) and Division 30 (Waste Management) of the California Public Resources Code. These powers include the power to plan for and implement elements of an Integrated Waste Management Plan within all or any part of its respective boundaries, including solid waste disposal, composting and recycling facilities, and waste diversion programs deemed necessary to meet state law. Said facilities and programs may include, but not be limited to, solid waste transfer facilities, household hazardous waste management, composting facilities, materials collection, marketing and market development, public education, conversion technologies, and

material recovery facilities. The purpose of this Agreement is to jointly exercise the foregoing common powers in the manner hereinafter set forth.

Pursuant to and to the extent required by Government Code Section 6509, the Authority shall be restricted in the exercises of its powers in the same manner as the City of Victorville is restricted in its exercise of similar powers; provided that, if the City of Victorville shall cease to be a member, then the Authority shall be restricted in the exercise of its power in the same manner as the Town of Apple Valley.

3. Powers . The Authority shall have the power in its own name to do any of the following:

- (a) To exercise jointly the common powers of its members in planning and implementing the members' Elements of the Integrated Waste Management Plan, or other alternative programs.
- (b) To prepare and support policy and legislation related to the purpose of the Agreement.
- (c) To make and enter into contracts.
- (d) To contract for the services of engineers, consultants, attorneys, planners, financial consultants, and to employ such other persons as it deems necessary.
- (e) To acquire, hold and dispose of property.
- (f) To incur debts, liabilities, or obligations subject to limitations herein set forth.
- (g) To sue and be sued in its own name.

- (h) To apply for grants, loans, or other assistance from persons, firms, corporations, or governmental entities.
- (i) To use financial devices including, but not limited to, community service districts, certificates of participation, and revenue bonds.
- (j) To serve as a local enforcement agency.
- (k) To install, construct, operate, and manage facilities.
- (l) To levy fees and collect payments.
- (m) To designate recycling or other environmental or solid waste zones or areas.
- (n) To serve as a Regional Agency for waste diversion, disposal and reporting.
- (o) To administer a Recycling Market Development Zone.

4. Definitions. For the purposes of this Agreement, the following words shall have the following meanings:

- (a) “Agreement” means this joint exercise of powers agreement.
- (b) “Authority” means the Mojave Desert and Mountain Integrated Waste Management Authority formed pursuant to this Agreement.
- (c) “Board” or “Board of Directors” means the governing body of the Authority.
- (d) “Director” means any director or alternate representing a member.

- (e) “Member” or “Party” means each of the parties that become a signatory to this Agreement, including any public entity joining the Authority after execution of the original Agreement as hereinafter provided in Section 28.
- (f) “Fiscal year” means July 1 of each year to and including the following June 30.
- (g) “Facility,” “Facilities” or “Project” means any building, work, activity or improvement acquired, installed or constructed by the Authority to carry out the purpose of this Agreement.
- (h) “Participating Member” means a member that has or will acquire rights and assume obligations in connection with a particular project or has an interest in a particular issue.
- (i) “Participating Director” means the director or alternate representing a participating member.
- (j) “Project Committee” means the group of participating directors overseeing the planning and implementation of a particular project, or review or action on a specific issue.

ORGANIZATION

5. Membership. The members of the Authority shall be the parties hereto and such other public entities as may join the Authority after execution of this Agreement pursuant to Section 28.

6. Names. The names, particular capacities, and addresses of the members at any time shall be as set forth in this Agreement and in any addendum hereto or in any amendment hereof or of any such addendum.

7. Designation of Directors. Within thirty (30) days after the execution of this Agreement by all of the original members or by a new member upon adoption of a resolution joining the Authority, each member shall designate and appoint, by resolution of its governing body, one member of its governing body to act as its director on the board. Each member shall also appoint one alternate director, who may, but need not be, a member of the governing body, whose name shall be on file with the board and who may assume all rights and duties of the absent director representing the appointing member. Each director and alternate shall hold office from the first meeting of the board after appointment by the governing body he or she represents until the selection of a successor by that body. Each director and alternate shall serve at the pleasure of the governing body he or she represents and may be removed at any time, with or without cause, at the sole discretion of that governing body. A director or alternate may receive such compensation from the Authority for his or her services as may from time to time be established by the board; provided, however, the per diem compensation for each director shall not exceed \$150; With advance approval by the board, a director or alternate may be reimbursed for reasonable expenses incurred in the conduct of the business of the Authority.

8. Principal Office . As provided by law, the Board shall designate the principal office of the Authority.

9. Meetings. The board shall meet at the principal office of the Authority or at such other place as may be designated by the board. The time and place of the regular meetings of the board shall be determined by resolution adopted by the board, and a copy of such resolution shall

be furnished on each party hereto. All meetings, including regular, adjourned and special meetings, shall be caused, noticed and held in accordance with Chapter 9, Division 2, Title S of the Government Code of the State of California (commencing at Section 54950). The board also may establish ad hoc or standing Project Committees to deal with specific issues as well as projects. Project Committees shall be subject to the Brown Act as required by law.

10. Quorum; Voting. A majority of the directors or, in the case of a project committee, a majority of the participating directors, shall constitute a quorum for the purpose of the transaction of business relating to the Authority or to a project committee as the case may be. Unless otherwise provided herein, each director or, in the case of a project committee, each participating director shall be entitled to one vote and a vote of the majority of those present and qualified to vote shall be sufficient for the adoption of any motion, resolution or order and to take any other action deemed appropriate to carry forward the objections of the Authority or of a project committee.

11. Minutes. The secretary of the Authority shall cause to be kept minutes of regular, adjourned regular, and special meetings of the board and project committees, and shall cause a copy of the minutes to be forwarded to each director and to each of the members hereto.

12. Rules. The board may adopt from time to time such rules and regulations for the conduct of its affairs as it may deem necessary.

13. Assent of Members. The assent or approval of a member in any matter requiring the approval of the governing body of the member shall be evidenced by a certified copy of the resolution of the governing body filed with the Authority.

14. Officers. The board shall elect from among its members a chairperson and a vice-chairperson at its first meeting, and thereafter at the first meeting in each succeeding fiscal year the board shall elect or re-elect a chairperson and a vice-chairperson. In the event that the chairperson or vice-chairperson ceases to be a director, the resulting vacancy shall be filled at the next regular meeting of the board held after such vacancy occurs. In the absence or inability of the chairperson to act, the vice-chairperson shall act as chairperson. The chairperson, or in his or her absence the vice-chairperson, shall preside at and conduct all meetings of the board. The board shall also designate a secretary and a controller and treasurer. Pursuant to Government Code Section 6505.1, the secretary and the controller and treasurer shall have charge of the property of the Authority and each shall file a bond in the penal sum of ten thousand dollars (\$10,000)

BUDGETS AND PAYMENTS

15. General Budget. Within sixty (60) days after the first meeting of the board, a general budget for the balance of the fiscal year shall be adopted by the vote of at least two-thirds (2/3) of all of the directors. The initial budget and each succeeding budget shall include, but not be limited to, the following: (a) the general administrative expenses of the Authority to be incurred during the period covered by the budget; and (b) the allocation among the members of the amounts necessary to cover the general budget expenditures. At or prior to the last meeting of the board for each fiscal year, a general budget shall be adopted for the ensuing fiscal year by a vote of at least two-thirds (2/3) of all of the directors.

16. Project Committee Budget. Each project committee shall adopt a separate project budget for each particular project committee for each fiscal year. This budget shall be adopted by the vote of at least two-thirds (2/3) of all of the participating directors in the project

committee within sixty (60) days after the first project committee meeting, and prior to the first project committee meeting of each succeeding fiscal year. The initial budget and each succeeding budget shall include, but not be limited to the following: (a) the expenses to be incurred during the period covered by the budget; and (b) the allocation among the participating members of the amounts necessary to cover these expenditures. Such allocation shall reflect the relative usage of the project by each participating member. A member who does not receive any benefit from a particular project or issue shall not be obligated to pay for expenditures for that project committee.

17. Expenditures for the Approved Budget. All expenditures within the designations and limitations of approved general, project committee, or other budgets shall be made on the authorization of the board for general budget expenditures or of the project committee for project committee expenditures. No expenditures in excess of those budgeted shall be made without the approval of two-thirds (2/3) of the directors regarding general budget expenditures or two-thirds (2/3) of the participating directors regarding project committee expenditures.

18. Payment of Amounts Due. Except as hereinafter provided, amounts required to be paid by any member shall be due and payable sixty (60) days after receipt of billing therefor. Any member not paying the amount due on time shall pay a late charge of one percent (1 or the maximum amount allowed by law) of the principal amount due for each month or fraction thereof that the payment is delinquent. A member may be expelled under paragraph 27 for continuing delinquency.

19. Reimbursement of Funds. The Authority shall not apply for any Federal or State grant, loan, or financing unless the application has been approved by a vote of at least two-thirds (2/3) of all the directors, or, in the case of a grant, loan, or financing for a project, a vote of two-

thirds (2/3) of all of the participating directors. Funds received by the Authority from any Federal, State or local agency to pay for budgeted expenditures for which the authority has received all or a portion of said funds from its members shall be proportionally paid to said members to reimburse the members for the funds advanced to the Authority for the construction of the facilities or direct project expenses for which funds have been received.

ACCOUNTING AND AUDITS

20. Accounting Procedures. Full books and accounts shall be maintained for the Authority in accordance with practices established by, or consistent with, those utilized by the Controller of the State of California for like public entities. In particular, the Authority's controller and treasurer shall comply strictly with requirements of the statute governing joint powers agencies, Article 1, Chapter 5, Division 7, Title 1 of the Government Code of the State of California (commencing with Section 6500.)

21. Audit. The records and accounts of the Authority shall be audited annually by an independent certified public accountant and copies of the audit reports shall be filed with the County Auditor, the State Controller and each member within twelve (12) months of the end of the fiscal year under examination.

PROPERTY RIGHTS

22. Project Facilities. All facilities constructed, installed or acquired by the Authority shall be held in the name of the Authority for the benefit of the members of the Authority in accordance with the terms of this Agreement. Unallocated capacity rights in respective project facilities shall be held for the benefit of the participating members in proportion to their agreed upon percentage capacity rights in the project facilities unless otherwise allocated by agreement

among the participating members. It is the intent of the foregoing provision that the Authority shall not acquire any unallocated capacity in any facility for disposal or use, except for the benefit of the participating members in proportion to their original percentage capacity rights in the facility. Capacity rights may be sold, leased or assigned to members who are non-participating with the written consent of two-thirds (2/3) of the participating members providing the member becomes a participating member.

23. Disposition of Assets Upon Termination. The Authority may vote to terminate this Agreement, or termination will occur if only one member is left in the Authority. If termination occurs, all surplus money and property of the Authority shall be conveyed or distributed to each member in proportion to the funds provided to the Authority by the member. Each member shall execute any instruments of conveyance necessary to effectuate such distribution or transfer. To the extent that any funds (or property in lieu of funds) received from any participating member are used for the acquisition or construction of facilities, the same shall be recorded on the books of the Authority to the credit of the contributing member. Upon termination or dissolution of the Authority, the facilities in possession of the Authority at such time shall be distributed in kind or sold, and the proceeds thereof distributed to the participating members at the time of termination as their interests are recorded on the books of the Authority.

24. Liabilities. The debts, liabilities and obligations of the Authority shall be the debts, liabilities or obligations of the Authority alone and not of the parties to this Agreement.

NOTICE OF AGREEMENT

25. Initial Notice. Within thirty (30) days of the effective date of this Agreement the Authority shall cause a notice of the Agreement to be prepared in the manner set forth in

Sections 6503.5 and 53051 of the Government Code and filed with the Office of the Secretary of State.

26. Additional Notices. Within thirty (30) days of the effective date of any amendments to this Agreement, the authority shall prepare and file with the Office of the Secretary of State the notice required by said Section 6503.5 and Government Code Section 53051.

WITHDRAWAL AND ADDITION OF NEW MEMBERS

27. Withdrawal/Expulsion. A member may withdraw its participation in the Authority upon sixty (60) days written notice to all other members and payments of all amounts owing. Withdrawal or expulsion shall not serve to reduce a member's duty to pay for its proportionate share of any obligation of the Authority incurred prior to withdrawal. A member may be expelled by majority vote for non-payment of any amounts due or other breach of the agreement. A member may be expelled upon two-thirds (2/3) vote of the other members as well.

28. Addition of New Members. A city, county, or other public entity may join the Authority upon consent of two-thirds of the members of the Authority. A new member will be responsible for reimbursing existing members for a proportion of their contributions for existing facilities which it intends to use, and will be responsible for a proportion of the debts, obligations, and liabilities of the Authority from these facilities, to the extent agreed upon by the Authority and the new member at the time of membership.

AGREEMENT PROCEDURES

29. Amendment. This Agreement may not be amended or modified except by a written agreement signed by all of the members.

30. Headings. The headings in this Agreement are for convenience only and are not to be construed as modifying or explaining the language in the section referred to.

31. Severability. Should any part, term, or provision of this Agreement be determined by a court to be illegal or unenforceable, the remaining portions or provisions of this Agreement shall nevertheless be carried into effect.

In witness thereof, the parties hereto have caused this Agreement to be executed and attested by their duly authorized officers as of the date first above written

Mayor, City of Adelanto

ATTEST:

City Clerk

Mayor, Town of Apple Valley

ATTEST:

City Clerk

Mayor, City of Barstow

ATTEST:

City Clerk

Mayor, City of Big Bear Lake

ATTEST:

City Clerk

Mayor, City of Needles

ATTEST:

City Clerk

ATTEST:

Mayor, City of Twentynine Palms

City Clerk

ATTEST:

Mayor, City of Victorville

City Clerk

ATTEST:

Mayor, Town of Yucca valley

Town Clerk

County of San Bernardino

ATTEST:

By: _____

Clerk of the Board



STAFF REPORT

February 28, 2006

TO: CITY COUNCIL

FROM: COMMUNITY SERVICES DIRECTOR

SUBJECT: APPROVE THE RECEIPT OF 339 PAIRS OF NIKE SOFTBALL AND BASEBALL CLEATS.

RECOMMENDATION

The City Council approve the receipt of the Nike/NRPA Cleats Grant for 339 pairs of Nike Cleats.

BACKGROUND

In late December, staff came across a grant from Nike and NRPA (National Recreation & Parks Association) for receiving Nike softball and baseball cleats for low-income families. In January, staff learned, that the City qualified to be part of the grant. The City was also asked to submit the paperwork requesting the number of shoes, how the City would determine low-income to low-moderate incomes, and how the City would disperse the shoes.

The City contacted the High School baseball and softball teams, along with Little League. Each program submitted their shoe request, and a list was compiled and sent to NRPA. The City requested 427 pairs of shoes, of which the City will receive 339 pairs. The City also determined that HUD (Housing and Urban Development) classifies the City, as more than 51% low to low-moderate income, and that the City would disperse shoes to every participant in each of the programs. The High School teams will work with the City and Little League to fit the participants from Little League. The 90 or so pairs of shoes the City did not receive, were sizes 3 and smaller. The shoes should arrive by the end of February. The value of the grant at \$50 per shoes is approximately \$17,000.

Staff recommendation is for Council to approve the receiving of the 339 pairs of cleats from Nike, and NRPA.



STAFF REPORT

FEBRUARY 28, 2006

TO: CITY COUNCIL AND CITY MANAGER

FROM: COMMUNITY SERVICES DIRECTOR

SUBJECT: PUBLIC HEARING REGARDING PRIORITIZATION FOR FUNDING OF COMMUNITY DEVELOPMENT BLOCK GRANT APPLICATIONS FOR FISCAL YEAR 2006-2007.

RECOMMENDATION

The public hearing be opened and public comments be received and after consideration of the subcommittee's recommendation and public comments, the City Council approve funding for the fiscal year 2006-2007 Community Development Block Grant Program.

DISCUSSION

The County of San Bernardino Department of Economic and Community Development requested applications for use of Community Development Block Grant Funds for fiscal year 2006-2007 in November of 2005. At the close of the application period in December, the Economic and Community Development Department staff reviewed the applications and has forwarded to the City those applications that are eligible for consideration for funding during fiscal year 2006-2007.

The City of Twentynine Palms will receive a total allocation of \$151,000 for fiscal year 2006-2007, which is \$13,000 less than last year. The City Council can allocate a maximum of 15%, \$22,650 toward public service projects, and leaving \$128,350 for construction projects. The City received twenty-one requests for \$2,913,339, of which twelve were Public Service request and nine Construction projects.

The City Council subcommittee, consisting of Council Member Steve Spears, and Council Member Elaine Bernal along with staff, met to review the applications and develop recommendations for the City Council to consider funding for fiscal year 2006-2007.

The following are the subcommittee recommendations for Community Development Block Grant funding for fiscal year 2006-2007.

City Council Meeting
February 28, 2006
CDBG Prioritization

COMMUNITY/PUBLIC SERVICE PROGRAMS

1.	MB American Red Cross	\$5,000
2.	Twentynine Palms Youth Club	\$6,000
3.	Morongo Basin Unity Home	\$5,000
4.	Reach Out 29 Inc.	<u>\$6,000</u>
	Sub Total	\$22,000

CONSTRUCTION PROJECTS

5.	Bucklin Park	\$67,000
6.	Luckie Park (Park Improvements)	\$30,000
7.	29 Palms Artist Guild	<u>\$32,000</u>
	Sub Total	\$129,000

Total **\$151,000**

The recommendation is for the City Council to receive input from the public and City Council subcommittee and then approve funding for the Community Development Block Grant Program for fiscal year 2006-2007.

“We Create Community Through People, Parks, and Programs.”



STAFF REPORT

February 28, 2006

TO: City Council via City Manager
FROM: City Attorney
SUBJECT: Adoption of Expense Reimbursement Policy

RECOMMENDATION

The City Council adopt Resolution No. 06-02 setting forth an Expense Reimbursement Policy for City Officials and Employees.

BACKGROUND

Pursuant to newly enacted Assembly Bill 1234, if the City desires to reimburse members of its City Council for expenses incurred in the performance of official duties, then the City Council must adopt a written policy, in a public meeting, specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses relating to travel, meals, lodging, and other actual and necessary expenses. The Expense Reimbursement Policy presented to City Council for approval is intended to satisfy this legal requirement and applies to both City officials and City employees.

RESOLUTION NO. 06-02

A RESOLUTION OF THE CITY OF TWENTYNINE PALMS ADOPTING AN EXPENSE REIMBURSEMENT POLICY FOR CITY OFFICIALS AND EMPLOYEES

WHEREAS, on January 1, 2006, Assembly Bill 1234 became law;
and

WHEREAS, Assembly Bill 1234 sets forth certain regulations with respect to reimbursement of expenses for appointed and elected officials and for local agency designated employees; and

WHEREAS, Assembly Bill 1234 provides that if the City desires to reimburse members of a legislative body for expenses incurred in the performance of official duties, then the City Council must adopt a written policy, in a public meeting, specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses relating to travel, meals, lodging, and other actual and necessary expenses; and

WHEREAS, the City hereby desires to adopt an Expense Reimbursement Policy which sets forth the types of expenses, amounts, and related matters that qualify for reimbursements; and

WHEREAS, the City's Expense Reimbursement Policy shall apply to expenses incurred by City elected and appointed officials and all City employees in accordance with the provisions of said policy.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Twentynine Palms does hereby resolve as follows:

SECTION 1. The City Council hereby approves the City's Expense Reimbursement Policy in the form attached hereto.

SECTION 2. Any future modification, amendment or revision to the City's Expense Reimbursement Policy shall be made at a regular Council meeting, with City Council approval.

PASSED, APPROVED AND ADOPTED this 28th day of February, 2006.

Kevin Cole, Mayor

ATTEST:

Charlene L. Sherwood CMC, City Clerk

I hereby certify that the foregoing Resolution No. 06-02 was duly adopted by the City Council of the City of Twentynine Palms at a regular meeting thereof, held on the 28th day of February, 2006, by the following vote of the Council:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

Charlene L. Sherwood CMC, City Clerk

CITY OF TWENTYNINE PALMS

EXPENSE REIMBURSEMENT POLICY

I. Authorized Expenses

A. City funds, equipment, supplies (including letterhead), titles, and staff time must only be used for authorized City business. Expenses incurred in connection with the following types of activities generally constitute authorized expenses, as long as the other provisions of this Policy are satisfied:

1. Communicating with representatives of regional, state, and national government on City adopted policy positions;
2. Attending educational seminars designed to improve officials or employees' skill and information levels;
3. Participating in regional, state, and national organizations whose activities affect the City's interests;
4. Recognizing service to the City (for example, thanking a longtime employee with a retirement gift or celebration of nominal value and cost);
5. Attending City events; and
6. Implementing a City-approved strategy for attracting or retaining businesses to the City.

B. All other expenditures not stated hereinabove require prior approval by the City Manager or by the City Council at a public meeting. The following expenses also require prior governing body approval:

1. International and out-of-state travel; and
2. Expenses exceeding \$2500.00 per trip or event.

C. Any questions regarding the propriety of a particular type of expense should be resolved by the approving authority before the expense is incurred. Examples of personal expenses that the City will not reimburse, subject to exceptional circumstances approved by the City Council, include but are not necessarily limited to the following:

1. The personal portion of any trip;
2. Political or charitable contributions or events;

3. Family expenses, including partner's expenses when accompanying officials or employees on agency-related business, as well as children- or pet-related expenses;
4. Personal entertainment expenses, including theater, movies (either in-room or at the theater), sporting events (including gym, massage and/or golf related expenses), or other cultural events not directly related with a City business function or activity;
5. Non-mileage personal automobile expenses, including repairs, traffic citations, insurance or gasoline; and
6. Personal losses incurred while on City business.

II. Transportation

An economical mode and class of transportation reasonably consistent with need and cargo space requirements must be utilized, using the most direct and time-efficient route when feasible. Government and group rates must be used when available.

A. Airfare. Unless scheduling needs directly related to City business do not permit, airfares must equal or be less than the cost available through the Enhanced Local Government Airfare Program offered through the League of California Cities (www.cacities.org/travel), the California State Association of Counties (<http://www.csac.counties.org/default.asp?id=635>), and the State of California, all of which are presumed to be economical and reasonable for purposes of reimbursement under this Policy. The State of California rates can be accessed from the state's website without being a member of these programs by going to <http://www.catravelmart.com/default.htm> and clicking on "Discount Travel Fares for Official Business."

B. Automobile. Automobile mileage is reimbursed at Internal Revenue Service rates in effect at the time the mileage expense is incurred (see www.irs.gov). For 2006, the rate is 44.5 cents per mile and shall automatically increase or decrease consistent with the Internal Revenue Service rates. These rates are designed to compensate the driver for gasoline, insurance, maintenance, and other expenses associated with operating the vehicle. This amount does not include bridge and road tolls, which are also reimbursable upon proof.

C. Car Rental. Rental rates that are equal or less than those available through the State of California's website (<http://www.catravelmart.com/default.htm>) shall be considered economical and reasonable for purposes of reimbursement under this Policy and shall be utilized unless not available.

D. Taxis/Shuttles. Taxi or shuttle fares may be reimbursed, including a 15 percent gratuity per fare, when the cost of such fares is equal or less than the cost of car rentals, gasoline, and parking combined, or when such transportation is necessary for time-efficiency.

III. Lodging and Traveling

A. General. Lodging expenses will be reimbursed or paid for when travel on official City business reasonably requires an overnight stay. A presumption shall exist that an overnight stay is reasonably required if the destination is located outside the Morongo Basin.

B. Conferences/Meetings. If such lodging is in connection with a conference, lodging expenses must not exceed the group rate published by the conference sponsor for the meeting in question if such rates are available at the time of booking. If the group rate is not available, see next section.

C. Other Lodging. Travelers must request government and group rates, when available. A listing of hotels offering government rates in different areas is available at <http://www.catravelmart.com/lodguideframes.htm>. Lodging rates that are equal to or less than government rates or Internal Revenue Service rates as established by Publication 463 are presumed to be reasonable and hence reimbursable for purposes of this Policy. If the event is located at a lodging facility which does not offer government or group rates or, regardless of the location of the event, if such rates are not available, travelers must lodge at a nearby facility with rates not exceeding the Internal Revenue Service rates as established by Publication 463.

D. Meals. Meal expenses and associated gratuities will be reimbursed at the following rates:

Breakfast	\$15
Lunch	\$20
Dinner	\$30

The City will not pay for alcohol/personal bar expenses.

E. Telephone/Fax/Cellular. Upon presentation of telephone or fax bills reflecting the sought expense reimbursement, City officials and employees will be reimbursed for actual telephone and fax expenses made on non-City issued phones and fax machines if such expense is incurred in the furtherance of City business. The City shall pay directly all costs related to City-issued phones, to the extent such phones are utilized for City business.

F. Airport Parking. Long-term parking must be used when available for travel exceeding 24-hours.

G. Other. Baggage handling fees of up to \$1 per bag and gratuities of up to 15 percent will be reimbursed. Expenses for which City officials and employees receive reimbursement from another agency are not reimbursable.

H. Cash Advance Policy. From time to time, it may be necessary for an official or employee to request a cash advance to cover anticipated expenses while traveling or doing business on the City’s behalf. Such request for an advance should be submitted to the Finance Department no less than 3 days prior to the need for the advance with the following information:

1. The purpose of the expenditure(s);
2. The benefits of such expenditure to the residents of City;
3. The anticipated amount of the expenditure(s) (for example, hotel rates, meal costs, and transportation expenses); and
4. The dates of the expenditure(s).

Any unused advance must be returned to the Finance Department no more than 5 business days of the official or employee’s return, along with an expense report and receipts documenting how the advance was used in compliance with this Policy.

In the event the Finance Department is uncertain as to whether a request complies with this Policy, such individual must seek resolution from the City Council.

IV. Credit Card Use Policy

The City’s credit card use policy is set forth in a separate document entitled “City of Twentynine Palms Policies and Procedures For Use of City Credit Cards” and is deemed incorporated into this Policy by this reference as if fully stated herein.

V. Vehicle Allowance

The City Manager shall be entitled to a vehicle allowance in accordance with the City Manager’s employment contract with the City. The City Manager shall on a monthly basis submit a vehicle expense report for such expense and such expense report shall conform to the requirements of this Policy.

VI. Expense Report Content And Submission Deadline

A. Expense Reports. All cash advance expenditures, credit card expenses, and expense reimbursement requests must be submitted on an expense report form provided by the Finance Department. The form shall include the following advisory:

All expenses reported on this form must comply with the City’s policies relating to expenses and use of public resources. The information submitted on this form is a public record. Penalties for misusing public resources and violating the City’s policies include loss of reimbursement privileges, restitution, civil and criminal penalties, as well as additional

income tax liability.

Expense reports must document that the expense in question met the requirements of this Policy. For example, if the meeting is with a legislator, the City official or employee should explain whose meals were purchased, what issues were discussed, and how those relate to the City's adopted legislative positions and priorities.

Officials and employees must submit expense reports within 30 days of an expense being incurred, accompanied by receipts, bills or similar documentation evidencing each expense. Restaurant receipts, in addition to any credit card receipts, are also part of the necessary documentation.

Inability to provide such documentation in a timely fashion may result in the expense being borne by the official or employee.

B. Receipt Requirement

Requests for expense reimbursements must be supported by receipts, bills or similar documentation reflecting such expense having been incurred. When receipts, bills or similar documentation are not available, a signed declaration of expenditure may be accepted by the Director of Finance and Administration at his/her discretion.

C. Audits Of Expense Reports

All expenses are subject to verification of compliance with this Policy by City or any other agency so entitled under applicable law. City officials and employees are expected to fully cooperate with such verification process and provide all information requested to support and document an expense reimbursement request.

D. Reports To The City Council

Each City official and employee shall briefly report orally or in writing on meetings attended at City expense at the City Council meeting following such meeting. For purposes of this reporting requirement, the term "meeting" has the same meaning as specified in Section 54952.2(a) [i.e., that is including only congregations of a majority of the members of a legislative body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the City or the local agency to which it pertains].

If multiple officials or employees attended, a joint report may be made. Prior to such meeting, an official or employee must provide the City Clerk notice that he or she will provide such a report and the City Clerk should properly agendaize such item.

VII. Cost Control

To conserve City resources and keep expenses within community standards for public officials and employees, expenditures should adhere to the following guideline: In the event that

expenses are incurred which exceed these guidelines, the cost borne or reimbursed by the City will be limited to the costs that fall within the guidelines.

VIII. Compliance With Laws

City officials should keep in mind that some expenditures may be subject to reporting under the Political Reform Act and other laws. For example, meals are considered “gifts” to legislators that must be reported by them if the total value of gifts given from the City exceeds \$50 in a year; there also is an annual gift limit as modified from time to time by the Fair Political Practices Commission. (*See* Cal. Gov’t Code § 87103(3).) All agency expenditures are public records subject to disclosure under the Public Records Act and other laws.

IX. Violation Of This Policy

Use of public resources or falsifying expense reports in violation of this Policy may result in any or all of the following: 1) loss of reimbursement privileges, 2) a demand for restitution to the City, 3) the City reporting the expenses as income to the official or employee to state and federal tax authorities, 4) civil penalties of up to \$1,000 per day and three times the value of the resources used, and 5) prosecution for misuse of public resources.



STAFF REPORT

February 28, 2006

TO: City Council via City Manager

FROM: City Attorney

SUBJECT: Adoption of Ethics Policy

RECOMMENDATION

The City Council adopt Resolution No. 06-03 setting forth an Ethics Policy for City Officials, Department Heads, and the City Manager.

BACKGROUND

Pursuant to newly enacted Assembly Bill 1234, every "local agency official" is required to receive at least two hours of training in general ethics principles and ethics laws relevant to his or her public service every two years. A "local agency official" is defined to include each of the following: (a) Any member of a City's legislative body or any elected City official who receives any type of compensation, salary, or stipend or reimbursement for actual and necessary expenses incurred in the performance of his or her official duties; and (2) Any employee designated by the City's legislative body to receive the training specified under this article. Assembly Bill 1234 provides that if the City provides any type of compensation, salary, or stipend to a member of a legislative body, or provides reimbursement for actual and necessary expenses incurred by a member of a legislative body in the performance of official duties, then all City officials must receive training in ethics.

This new legislation requires that the City provide information on training available to meet the ethics requirements to its City officials at least once annually. Each City official in local agency service as of January 1, 2006, except for officials whose term of office ends before January 1, 2007, is required to receive the training required by

Assembly Bill 1234 before January 1, 2007. Thereafter, each such City official must receive the training required at least once every two years. Each City official who commences service with the City on or after January 1, 2006, must receive the training required no later than one year from the first day of service with the City. Thereafter, such City official must receive the training required at least once every two years. Any City official who serves more than one local agency need only satisfy the requirements of this article once every two years without regard to the number of local agencies with which he or she serves.

The City is required under Assembly Bill 1234 to maintain records indicating both of the following: (1) The dates that the City official satisfied the requirements of this legislation; and (2) The entity that provided the training. The City must maintain these records for at least five years after the City official receives the training.

As presented to the City Council, the City's Ethics Policy applies not only to City elected and appointed officials but also to all Department Heads and the City Manager.

RESOLUTION NO. 06-03

A RESOLUTION OF THE CITY OF TWENTYNINE PALMS ADOPTING AN ETHICS TRAINING POLICY FOR CITY OFFICIALS AND EMPLOYEES

WHEREAS, on January 1, 2006, Assembly Bill 1234 became law;
and

WHEREAS, Assembly Bill 1234 sets forth certain regulations with respect to ethics training for appointed and elected officials and for local agency designated employees; and

WHEREAS, Assembly Bill 1234 provides that if the City provides any type of compensation, salary, or stipend to a member of a legislative body, or provides reimbursement for actual and necessary expenses incurred by a member of a legislative body in the performance of his or her official duties, then all local agency officials shall receive training in ethics; and

WHEREAS, Assembly Bill 1234 further provides that cities may require the same training in ethics for designated City employees; and

WHEREAS, the City hereby desires to adopt an Ethics Training Policy which sets forth training in ethics requirements; and

WHEREAS, the City's Ethics Training Policy shall require training in ethics by City elected and appointed officials, Heads of City Departments, and the City Manager.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Twentynine Palms does hereby resolve as follows:

SECTION 1. The City Council hereby approves the City's Ethics Training Policy in the form attached hereto.

SECTION 2. Any future modification, amendment, or revision to the City's Ethics Training Policy shall be made at a regular Council meeting, with City Council approval.

PASSED, APPROVED AND ADOPTED this 28th day of February, 2006.

Kevin Cole, Mayor

ATTEST:

Charlene L. Sherwood CMC, City Clerk

I hereby certify that the foregoing Resolution No. 06-03 was duly adopted by the City Council of the City of Twentynine Palms at a regular meeting thereof, held on the 28th day of February, 2006, by the following vote of the Council:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

Charlene L. Sherwood CMC, City Clerk

CITY OF TWENTYNINE PALMS

ETHICS TRAINING POLICY

I. APPLICABILITY

A. This Ethics Training Policy for the City of Twentynine Palms is applicable to each of the following individuals (hereinafter “City officials and employees”):

- (1) Elected and appointed City officials;
- (2) City Department Heads; and
- (3) City Manager.

II. REQUIRED FREQUENCY OF TRAINING

A. City officials and employees in City service as of January 1, 2006, except for such individuals whose term of office or employment ends before January 1, 2007, shall receive the training required by this Policy before January 1, 2007. Thereafter, each such City official and employee shall receive the training required at least once every two years.

B. Each City official and employee who commences service with the City on or after January 1, 2006, shall receive the training required no later than one year from the first day of service with the City. Thereafter, each such City official and employee shall receive the training required at least once every two years.

C. Each City official and employee who serves on more than one local agency shall satisfy the requirements of this article once every two years without regard to the number of local agencies with which he or she serves.

III. TRAINING REQUIREMENTS

A. Each City official and employee shall receive at least two hours of training in general ethics principles and ethics laws relevant to his or her public service as required by Section II of this Policy.

B. The City or an association of local agencies may offer one or more training courses, or sets of self-study materials with tests, to meet the requirements of this Policy.

C. To satisfy the requirements of this Policy, the ethics course attended by City officials and employees shall be reviewed and approved by the Fair Political Practices Commission and the Attorney General with regard to the sufficiency and accuracy of course content. It is the obligation of each City official and employee to ensure that the training chosen

by that individual satisfies this Policy and State law.

D. The ethics training may be taken at home, in-person, or online.

C. To qualify under this Policy, the provider of the training course chosen shall provide participants with proof of participation to meet the requirements of Section IV(B) of this Policy. It shall be the responsibility of each City official and employee to provide such proof to the City.

IV. CITY OBLIGATIONS

A. The City shall provide information on training available to meet the requirements of this Policy to its City officials and employees at least once annually.

B. The City shall maintain records indicating both of the following:

(1) The dates that local officials satisfied the requirements of this Policy; and

(2) The entity that provided the training.

C. Notwithstanding any other provision of law, the City shall maintain these records for at least five years after the City official and employee receives the training. These records are public records subject to disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1).